

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

v.

MARK STEVEN ERCKERT,

Movant.

No. 2:04-cr-0104-JAM-CMK  
2:09-cv-2655-JAM-CMK

**ORDER**

Movant, a federal prisoner proceeding pro se, brings this motion to vacate, set aside or correct a criminal judgment pursuant to 28 U.S.C. § 2255. This matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On October 8, 2014, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed.<sup>1</sup>

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the Magistrate Judge's analysis.

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<sup>1</sup> Although it appears from the file that the findings and recommendations were returned, the parties were properly served. It is the responsibility of the parties to keep the court apprised of their address of record at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

1 Before a movant can appeal a decision from this court, a certificate of  
2 appealability must issue under 28 U.S.C. § 2253(c). See Fed. R. App. P 22(b); see also 28 U.S.C.  
3 § 2255. A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has  
4 made a substantial showing of the denial of constitutional right.” 28 U.S.C. § 2253(c)(2). The  
5 court must either issue a certificate of appealability indicating which issues satisfy the required  
6 showing or must state the reasons why such a certificate should not issue. See Fed. R. App. P.  
7 22(b). For the reasons set forth in the magistrate judge’s findings and recommendations, movant  
8 has not made a substantial showing of the denial of a constitutional right.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations filed October 8, 2014, are adopted in full;
- 11 2. Movant’s motion (Doc. 223 in the criminal docket) is denied;
- 12 3. The court declines to issue a certificate of appealability; and
- 13 4. The Clerk of the Court is directed to close companion civil case no. 2:09-cv-  
14 2655-JAM-CMK.

15 DATED: March 20, 2015

16 /s/ John A. Mendez

17 UNITED STATES DISTRICT COURT JUDGE  
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